

REMARKS/ARGUMENTS

Favorable reconsideration of this application as presently amended and in light of the following discussion is respectfully requested.

Claims 9-12 are pending in this case.

In the outstanding Official Action, Claim 9 was rejected under 35 U.S.C. §101. Claims 9-12 were rejected under the judicially created doctrine of obviousness-type double patenting as unpatentable over Claims 1-6 of U.S. Patent No. 6,539,168.

As for the rejection of Claim 9 under 35 U.S.C. §101, that rejection is respectfully traversed. Claim 9 is amended to recite that the recording/reproducing device accesses the object file of the first area by referring to the management information of the second area. Accordingly, it is respectfully requested that this rejection be withdrawn.

MPEP §2106 discusses statutory subject matter in relation to data structures of a computer readable medium. Particularly, MPEP §2106 provides,

**a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory.**

Thus, based on the clear language of this section, Claim 9 is statutory as it defines a functionality of which is realized based on the interrelationship of the structure to the medium and recited hardware components.

Further, should the Examiner disagree with the above passage, MPEP §2106 also states that,

Whenever practicable, Office personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.

Applicants respectfully submit, as noted above, that the rejection under 35 U.S.C. §101 should be withdrawn. However, if the rejection under U.S.C. §101 is to be maintained, applicants respectfully request that the Examiner provide an explanation of the rejection in view of the guidelines of MPEP §2106.

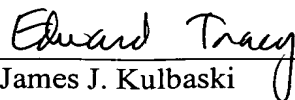
With regard to the non-statutory double patenting rejection of Claims 9-12 over Claims 1-6 of U.S. Patent No. 6,539,168, the rejection is respectfully traversed in light of the terminal disclaimer submitted herewith.

The filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection. The "filing of a terminal disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." *Quad Environmental Technologies Corp. v. Union Sanitary District*, 946 F.2d 870, 20 USPQ2d 1392 (Fed. Cir. 1991). Accordingly, Applicants filing of the attached disclaimer is provided for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection.

Accordingly, the outstanding double patenting rejection is traversed and the pending claims are believed to be in condition for formal allowance. An early and favorable action to that effect is respectfully requested.

Respectfully submitted,

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